IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 4349 of 2000

Between:

G.Krishna Rao, S/o. Venkata Subba Rao, Inspector of police
Godavarikhani, II Town PS, Godavarikhani,
Karimnagar District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by Principal Secretary to Government, Home Department,
Secretariat Buildings, Hyderabad-22
2 Director General and Inspector General of Police Government of Andhra Pradesh, Lakdikapool, Hyderabad.
3 Inspector General of Police (Administration)
Lakdi-ka-pool, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus to declare the order of the Andhra Pradesh Administrative Tribunal passed in OA.No.7900/1997 Dt.21/2/2000 as bad in law and further declare that the petitioner is entitled for promotion to the post of Deputy Superintendent of police by inclusion of the petitioner's name in the panel year 1997-98 with all consequential

benefits and to pass such other order.

Counsel for the Petitioner: MR.M.VIJAY KUMAR

Counsel for the Respondents: GP FOR SERVICES II

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 21.02.2000, passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.7900 of 1997.

2. The matter relates to promotion to the post of Deputy Superintendent of Police. The petitioner was working as Inspector of Police and according to the petitioner he was maintaining clean record of service. However, the DPC was conducted for empanelling the candidates for promotion to the post of DSP for the year 1997-98. The petitioner figured at Sl.No.32. But, however, he was not recommended for promotion, and therefore, he was not promoted to the post of DSP. Aggrieved by the action of the authorities in not promoting the petitioner to the post of DSP, he filed O.A.

3. The Tribunal taking into consideration the counter filed by the Government held that in view of the poor record of service, the rejection of promotion of the petitioner cannot be said to be illegal or contrary to law. Aggrieved by the said order, the present Writ Petition has been filed.

4. Learned counsel for the petitioner submits that the petitioner has maintained clean record of service and was awarded with commendations, and therefore, the DPC could not pass its opinion on the basis of the un-communicated adverse remarks.

5. In order to find out the actual service record of the petitioner, we directed the Government Pleader to file the proceedings of the DPC. As seen from the proceedings of the DPC, it is clear that it has rejected the case of the petitioner with the following observation:

“Not recommended in view of his poor record”.

6. The question that calls for consideration is whether this ground can be said to be a reasonable ground to deny the promotion. If the petitioner’s performance can be said to be poor, it falls in an adverse remark and it is not in dispute that the petitioner was not communicated with any adverse remarks so far. Under those circumstances, the DPC without considering the personal record of the petitioner, rejected promotion on the ground of his poor record. We therefore find that the order of the DPC cannot be sustained. But, however the scenario is now changed. The petitioner was retired from service on 28.2.1999 and is claiming the promotion in the seniority list prepared by the DPC for the panel year 1997-98. In case, if the authorities are directed to consider his case without reference to poor record, no prejudice would be caused to other persons. Under those circumstances, we are of the view that the order of the Tribunal is not sustainable and is accordingly, set aside.

7. The respondents are directed to convene the DPC and review the case of the petitioner for promotion in 1997-98 panel year without reference to the poor record.

8. It is also brought to the notice of this Court by the learned Government Pleader that the petitioner on his own showing was issued with three charge memos and on that ground he was not eligible for promotion.

9. We are afraid we cannot accept the contention raised by the learned Government Pleader inasmuch as these charge memos do not form any basis for denying the promotion of the petitioner.

10. Under those circumstances, while reviewing the case of the petitioner, DPC shall only take into consideration the charge memos, if any, pending on that day and consider the case of the petitioner without reference to the alleged poor record as

noticed by it. This exercise shall be done within a period of two months from the date of receipt of a copy of this order.

11. With the above observation, the Writ Petition is accordingly, disposed of. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 25.04.2005

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To

1 The Principal Secretary, Government of Andhra Pradesh, Home Department, Secretariat Buildings, Hyderabad-22
2 The Director General and Inspector General of Police, Government of Andhra Pradesh, Lakdikapool, Hyderabad.
3 The Inspector General of Police (Administration)
Lakdi-ka-pool, Hyderabad

4 2 CCs to the GP for Services-II, High Court buildings, Hyderabad (OUT)

5 The Registrar, A.P. Administrative Tribunal, Hyderabad.

6 2 CD copies

7 1 CC to MR.VIJAY KUMAR